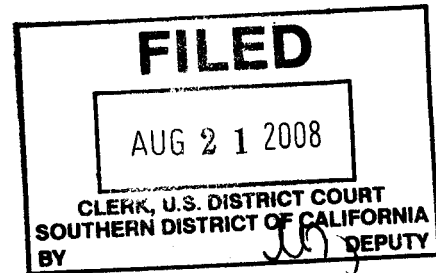


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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11 (HONORABLE JANIS L. SAMMARTINO)

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 JOSE BAUDILIO GASTELUM,

16 Defendant.

CASE NO. 08cr2032-JLS

DATE: August 21, 2008
TIME: 9:00 a.m.

STIPULATION OF FACTS

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18
19 **STIPULATION OF FACTS**

20 It is agreed, between the defendant, Jose Gastelum, through his attorney, Robert
21 Rexrode, and the attorney for the United States, Assistant United States Attorney, Charlotte
22 Kaiser, that the following facts may be considered by Judge Janis Sammartino in deciding
23 the pre-trial motions filed in this case:

- 24 1. In a videotaped deposition, taken on August 12, 2008, Jose Toledo-Corrales, testified
25 as follows:
- 26 a. He was detained by federal agents on June 5, 2008.
 - 27 b. On that day, he was a passenger in a car stopped by federal agents.
 - 28 c. Before he felt the car run over a "spike-strip," he did not hear any sirens.

- 1 d. Before he felt the car run over a "spike-strip," he did not see any emergency
- 2 lights.
- 3 e. The car he was a passenger in had four doors.
- 4 f. He was sitting in the back seat of the car, with five other passengers.
- 5 g. The back windows of the car were rolled up.
- 6 h. He believes the front windows of the car were down, as he felt wind flowing
- 7 through the car.
- 8 i. There was no music playing in the car.
- 9 j. After the car ran over the "spike-strip," the car continued for some time
- 10 before coming to a stop.
- 11 k. Once the car came to a stop, the driver, whom Mr. Toledo-Corrales identified
- 12 as Mr. Gastelum, left the car.

13 2. In a videotaped deposition, taken on August 12, 2008, Ernesto Martinez-Mosqueda,
14 testified as follows:

- 15 a. He was detained by federal agents on June 5, 2008.
- 16 b. On that day, he was a passenger in a car stopped by federal agents.
- 17 c. Before he felt the car run over a "spike-strip," he did not hear any sirens.
- 18 d. Before he felt the car run over a "spike-strip," he did not see any emergency
- 19 lights.
- 20 e. The car he was a passenger in had four doors.
- 21 f. He was sitting in the back seat of the car, with five other passengers, and
- 22 next a woman who occasionally blocked his view, although he did at time
- 23 see out of the car and once noticed a border patrol car pass.
- 24 g. The back windows of the car were rolled up.
- 25 h. He believes the front windows of the car were down, as he felt wind flowing
- 26 through the car.
- 27 i. There was no music playing in the car.
- 28 j. After the car ran over the "spike-strip," the car continued for some time

1 before coming to a stop.

2 k. Once the car came to a stop, the driver, whom Mr. Martinez-Mosqueda
3 identified as Mr. Gastelum, left the car.

4 3. In a videotaped deposition, taken on August 14, 2008, Blanca Morado-Lopez,
5 testified as follows:

6 a. She was detained by federal agents on June 5, 2008.

7 b. On that day, she was a passenger in a car stopped by federal agents.

8 c. She was in the front passenger seat of the car.

9 c. Before she felt the car run over a "spike-strip," she does not recall hearing
10 any sirens.

11 d. Before she felt the car run over a "spike-strip," she does not recall seeing any
12 emergency lights.

13 e. Ms. Morado-Lopez testified that she observed Mr. Gastelum speaking on a
14 cellular phone, discussing who was following the car and where he was
15 headed.

16 f. After the car ran over the "spike-strip," the car continued for some time
17 before coming to a stop.

18 g. Once the car came to a stop, the driver, whom Ms. Morado-Lopez identified
19 as Mr. Gastelum, left the car.
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21
22

23 Dated: 8/21/08


ROBERT H. REXRODE, III
Attorney for Mr. Gastelum

24
25 Dated: 8/21/08


CHARLOTTE KAISER
Assistant United States Attorney